

014691-001584

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DEUTSCHE BANK NATIONAL TRUST
COMPANY,

CASE NO. 1:06-cv-00706

Plaintiff,

DISTRICT JUDGE ANN
ALDRICH

v.

BRIAN RICHARD HALEY, et al.,

**DEFAULT JUDGMENT AND
DECREE IN FORECLOSURE**

Defendants.

UNITED STATES DISTRICT JUDGE ANN ALDRICH

This matter is before the Court on Plaintiff's Motion for Default Judgment and Decree in Foreclosure, to obtain judgment upon the Note as described in the Complaint, to foreclose the lien of the Mortgage securing the obligation of such Note upon the real estate described herein, and to require all parties to set up their claims to the real estate or be barred.

The Court finds that: (1) the Defendant(s) Brian Richard Haley and Unknown Spouse, of Brian Richard Haley are in default of Motion or Answer; and (2) the Clerk's Entry of Default was filed herein on August 29, 2006.

Accordingly, the Court takes the allegations contained in the Complaint as true, including that there is due and owing to the Plaintiff against BRIAN RICHARD HALEY in the amount of \$89,071.45, plus interest on outstanding principal balance due at the rate of 8.25% from July 1, 2005.

The Note is secured by the Mortgage held by the Plaintiff, which mortgage constitutes a valid and first lien upon the following described premises (the "Property"):

SITUATED IN THE CITY OF NORTH OLMSTED, COUNTY OF CUYAHOGA AND STATE OF OHIO: AND KNOWN AS BEING A PART OF ORIGINAL DOVER TOWNSHIP LOT NO. 18 AND FURTHER DESCRIBED AS FOLLOWS:

PARCEL NO. 1:

BEGINNING IN THE CENTER LINE OF COLUMBIA ROAD (80 FEET WIDE), FORMERLY HALL ROAD, AT A POINT WHICH BEARS NORTH 37 DEG. 15' 00" WEST 939.23 FEET FROM THE INTERSECTION OF THE CENTERLINE OF HALL ROAD NOW VACATED, WITH THE CENTER LINE OF LORAIN ROAD, SAID PLACE OF BEGINNING BEING THE NORTHEASTERLY CORNER OF A PARCEL OF LAND CONVEYED TO BLANCHE BELL BY DEED RECORDED IN VOLUME 3230, PAGE 12 OF CUYAHOGA COUNTY RECORDS OF DEEDS; THENCE SOUTH 37 DEG. 15' 00" EAST ALONG SAID CENTER LINE OF COLUMBIA ROAD, 11.76 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL OF LAND CONVEYED TO DORIS J. BELL BY DEED RECORDED IN VOLUME 6638, PAGE 208 OF SAID DEED RECORDS; THENCE SOUTH 62 DEG. 06' 00" WEST ALONG THE NORTHWESTERLY LINE OF LAND SO CONVEYED TO DORIS J. BELL, 186.14 FEET TO THE NORTHWESTERLY CORNER THEREOF; THENCE SOUTH 15 DEG. 39' 30" EAST ALONG THE SOUTHWESTERLY LINE OF SAID DORIS J. BELL'S LAND, 50.00 FEET TO THE NORTHEASTERLY CORNER OF LAND CONVEYED TO BEN RAMSTORF BY DEED RECORDED IN VOLUME 5638, PAGE 629 OF SAID RECORDS OF DEEDS; THENCE SOUTH 58 DEG. 05' 00" WEST ALONG THE NORTHWESTERLY LINE OF SAID LAND OF CONVEYED TO BEN RAMSTORF, 233.97 FEET TO A POINT IN THE SOUTHWESTERLY LINE OF LAND CONVEYED TO BLANCHE BELL AS AFORESAID; THENCE NORTH 12 DEG. 12' 00" WEST ALONG SAID SOUTHWESTERLY LINE OF BLANCHE BELL'S LAND, 254.19 FEET TO THE NORTHWESTERLY CORNER THEREOF; THENCE NORTH 86 DEG. 44' 00" EAST ALONG THE NORTHERLY LINE OF LAND SO CONVEYED TO BLANCHE BELL 402.27 FEET TO A POINT IN SAID CENTER LINE OF COLUMBIA ROAD AT THE PLACE OF BEGINNING, ACCORDING TO A SURVEY BY JOHN R. CLOYD, REGISTERED SURVEYOR NO 1274, MADE AUGUST 31, 1949

PARCEL NO.2:

BEGINNING IN THE CENTER LINE OF COLUMBIA ROAD (60 FEET WIDE) AT A POINT WHICH BEARS NORTH 37 DEG. 15' 00" WEST, 883.23 FEET FROM THE INTERSECTION OF THE CENTERLINE OF HALL ROAD, NOW VACATED, WITH THE CENTER LINE OF LORAIN ROAD; THENCE SOUTH 60 DEG. 43' 30" WEST 207.56 FEET TO AN IRON MONUMENT; THENCE NORTH 15 DEG. 39' 30" WEST, 50.00 FEET TO AN IRON MONUMENT; THENCE NORTH 62 DEG. 08' 00" EAST, 183.14 FEET TO A POINT IN THE CENTER LINE OF COLUMBIA ROAD; THENCE SOUTH 37 DEG. 15' 00" EAST ALONG THE CENTER LINE OF COLUMBIA ROAD, 44.24 FEET TO A POINT AND THE PLACE OF BEGINNING, BE THE SAME MORE OR LESS, BUT SUBJECT TO AN LEGAL HIGHWAYS, ACCORDING TO A SURVEY BY JOHN R. CLOYD REGISTERED SURVEYOR NO. 1276.

PARCEL NO. 231-34-004

COMMONLY KNOWN AS: 4140 Columbia Road, North Olmsted, Ohio 44070

Taking as true the allegations contained in Plaintiff's Complaint, the Court finds that the Mortgage was filed for record on September 16, 2004 as Instrument Number 200409161024 in the Cuyahoga County Recorder's Office; that the Mortgage, together with the Note, was assigned to Plaintiff by an Assignment of Mortgage filed for record on July 25, 2006 as Instrument Number 200607250280 of the Cuyahoga County Recorder's Office;] that the conditions of said Mortgage have been broken; and that Plaintiff is entitled to have the equity of redemption of the Defendant-Titleholder foreclosed.

The Court finds that Defendant MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC., AS NOMINEE FOR WMC MORTGAGE, INC., claims some right, title, interest, or lien upon the premises described herein, as set forth in its Answer filed herein, but that any right, title, interest, claim, or lien said Defendant may have is inferior and subsequent to the lien of the Plaintiff and the County Treasurer for real estate taxes and is hereby ordered transferred to the proceeds derived from the sale of the subject premises after payments of costs, taxes, and the amount found due to the Plaintiff.

IT IS THEREFORE ORDERED, that unless the sums hereinabove found to be due to Plaintiff and the costs of this action be fully paid within ten (10) days from the date of the entry of this decree, the equity of redemption of the Defendant-Titleholder in said real estate shall be foreclosed and the real estate sold, free and clear of the interest of all parties herein, and an order of sale shall be issued to the Master Commissioner of the Northern District of Ohio directing him to appraise and sell the premises at public sale, as upon execution and according to law, after having the property advertised pursuant to 28 U.S.C. §§ 2001 and 2002. The Master Commissioner shall report his proceedings to this Court.

ORDERED FURTHER, that the Master Commissioner shall send counsel for the party requesting the Order of Sale a copy of the publication notice promptly upon its first publication.

In the event that an Order of Sale is returned by the Master Commissioner unexecuted, subsequent Orders of Sale shall be issued in accordance with the Court's instructions.

ORDERED FURTHER, that the Master Commissioner, upon confirmation of said sale, shall pay from the proceeds of said sale, upon the claims herein found, the amounts thereof in the following order of priority:

1. To the Master Commissioner for his or her fees and to satisfy all costs incurred by the Master Commissioner incident to the advertising and sale of the property;
2. To the Treasurer of Cuyahoga County, the taxes and assessments due and payable as of the date of transfer of the property after the Master Commissioner's Sale;
3. To the Plaintiff, the sum of \$89,071.45, with interest at the rate of 8.25% per annum from July 1, 2005;
4. To the Plaintiff, Deutsche Bank National Trust Company, as trustee on behalf of the Certificateholders of Morgan Staley ABS Capital I Inc., Morgan Stanley ABS Capital I, Inc., Trust 2004-WMC3 the sums advanced for real estate taxes, hazard insurance, and property protection;
5. The balance of the sale proceeds, if any, shall be held by the Master Commissioner to await further orders of distribution by this Court.

Since Plaintiff is the first and best lienholder, (junior to any real estate taxes), if it is the successful bidder at the Master Commissioner's Sale, Plaintiff shall not be required to make a deposit at the time of sale. Plaintiff shall pay the balance of all the Master Commissioner's costs due and owing, and real estate taxes due and payable, when they are ascertained.

Upon distribution of the proceeds of sale as described above and entry of an order confirming the sale and ordering a deed to the purchaser, a certified copy of the entry shall be issued to the Cuyahoga County Recorder directing him or her to enter the same on the margin of the records of the mortgages and liens, releasing the liens adjudicated herein from the premises.

IT IS SO ORDERED.

DATE: 1-5-07

s/Ann Aldrich
UNITED STATES DISTRICT JUDGE